

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**JOHN MICHEAL WATKINS,** )  
  )  
**Plaintiff,**                      )  
  )  
**v.**                                 )                                      **Case No. CIV-14-79-F**  
  )  
**REESE LANE, et al.,**            )  
  )  
**Defendants.**                    )

**REPORT AND RECOMMENDATION**

Plaintiff, a state prisoner appearing pro se, has filed a motion for leave to proceed *in forma pauperis* and supporting affidavit. Pursuant to an order entered by United States District Judge Stephen P. Friot, this matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). By an order dated January 29, 2014, the undersigned found that Plaintiff must pay the initial filing fee or make application to proceed *in forma pauperis*, ECF No. 4. The Order directed Plaintiff to cure these deficiencies on or before February 19, 2014. Plaintiff was further advised that failure to comply with the Order could result in dismissal of his action.

A review of the court file reveals that more than seven weeks have passed without Plaintiff curing the deficiencies, showing good cause for his failure to do so, or requesting an extension of time to comply with the Court's order. In fact, Plaintiff has not responded to the Court's order in any way. Additionally, the Court's records reflect that mail addressed to Plaintiff is being returned as undeliverable. *See* ECF No. 5. As of

this date Plaintiff has not submitted a notice of change of address to the Clerk of Court. Plaintiff is responsible for notifying the court of any change of address. *See* LCvR 5.4(a). Moreover, "[p]apers sent by the Court will be deemed delivered if sent to the last known address given to the Court." *Id.*

The undersigned finds that Plaintiff's failure to comply with the Court's Order, in light of the Court's right and responsibility to manage its cases, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Center*, 492 F.3d 1158, 1161 n.2, 1162 (10<sup>th</sup> Cir. 2007) (*sua sponte* dismissal for failure to comply with Court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing actions without prejudice for failure to comply). Also, it is clear from the undeliverable mail that Plaintiff has failed to comply with LCvR 5.4(a), requiring written notification to the Clerk of Court on a form provided by the Clerk of a change in address. Although Plaintiff is a pro se litigant, he is required to follow the same rules of procedure governing other litigants. *Green v. Dorrell*, 969 F.2d. 915, 917 (10<sup>th</sup> Cir. 1992).

## **RECOMMENDATION**

For the reasons set forth above, it is therefore recommended that this action be **DISMISSED** without prejudice to re-filing. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of Court by **April 10, 2014**, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that any failure to make timely objection to this Report and Recommendation

waives the right to appellate review of the factual and legal issues addressed herein.

*Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10<sup>th</sup> Cir. 2010).

This Report and Recommendation **disposes of all issues** referred to the undersigned Magistrate Judge in the captioned matter.

**ENTERED** on March 24, 2014.

  
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SHON T. ERWIN  
UNITED STATES MAGISTRATE JUDGE